

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re application of:

SETTE *et al.*

Appl. No. 09/357,737

Filed: July 19, 1999

For: **Inducing Cellular Immune  
Responses To Hepatitis C Virus  
Using Peptide And Nucleic Acid  
Compositions**

Confirmation No.

Art Unit: 1644

Examiner: Schwadron, R.

Atty. Docket: 2060.0030005/EKS/HCC

**Provisional Election Of Species**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

The Examiner has required an election of species. To be fully responsive, Applicants hereby provisionally elect (a) the peptide GVAGALVAFK (SEQ ID NO:3584), and (b) the composition containing a T helper epitope. In view of this provisional election, new independent claim 166, and dependent claims 104-109, 148-153, 167-168, and 170-204 added in the accompanying Preliminary Amendment, read on the provisionally elected species, with new claim 166 being generic. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

Applicants assert the right to claim additional species in the event that a generic claim thereto is found to be allowable in accordance with 37 C.F.R. § 1.141(a). This election is made without traverse. Consideration and allowance of all pending claims, are respectfully requested.

***Interview***

Applicants thank Examiners Schwadron and DiBrino for the courteous and helpful interview extended to Bob Chesnut, Alex Alessandro, and Grace Doh, all of Epimmune, and Applicants' representatives Eric Steffe and Helene Carlson on January 10, 2002.

As discussed during the interview, Applicants have organized the independent claims to include peptides having the same priority dates, to aid in examination. Thus, Applicants

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respectfully request examination of a reasonable number of peptides, notwithstanding the fact that they are recited in three independent claims (claims 77, 122, and 166).

It is believed that extensions of time are not required, beyond those that may otherwise be provided for in accompanying documents. However, in the event that additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036. A duplicate copy is enclosed.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Helene C. Carlson  
Agent for Applicants  
Registration No. 47,473

Date: 3/26/2002  
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**Table 1 – Examples of Support for Claims**

**Claim Language**

T helper peptide

Spacer

Carrier

Lipid

Fusion protein

Homopolymer

Heteropolymer

Composition

Pharmaceutical composition

Liposome

Vaccine

Pharmaceutically acceptable carrier

One or more second peptides

15, 11, 10, 9 amino acids in length

Linker

**Specification**

Page 51, line 12-page 52, line 29

Page 52, lines 22-29

Page 43, lines 4-15

Page 43, lines 18-21

Page 43, lines 4-6

Page 43, 31-34

Page 51, line 12-page 52, line 29

Page 43, lines 4-6

Page 43, lines 4-6

Page 54, line 32-page 55, line 1

Page 47, lines 29-32

Page 55, lines 31-33

Page 58, lines 3-19

Page 42, line 8-page 48, line 16

Page 12, lines 23-24

Page 43, lines 4-15

Page 38, lines 8-9

Page 43, lines 3-6

Page 43, lines 31-34

Page 37, lines 18-21

Page 52, lines 31-32

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**Table 2 – Peptides**

<b><u>SEQ ID NO (claim)</u></b>	<b><u>Antigen</u></b>	<b><u>Priority Date</u></b>	<b><u>Priority Appl. No.</u></b>
3580	HCV CORE 43	08/07/92	07/926,666
3567	HCV NS4 1812	03/05/93	08/027,146
3568 (77)	HCV NS1/E2 728	03/05/93	08/027,146
3569 (77)	HCV NS4 1590	03/05/93	08/027,146
3570 (77)	HCV NS5 2611	03/05/93	08/027,146
3571 (122)	HCV CORE 132	03/05/93	08/027,146
3575 (77)	HCV NS4 1851	03/05/93	08/027,146
3576 (77)	HCV CORE 35	03/05/93	08/027,146
3578 (77)	HCV LORF 1131	03/05/93	08/027,146
3591 (166)	HCV NS3 1128	08/06/93	08/103,396
3579 (166)	HCV CORE 51	08/06/93	08/103,396
3581 (166)	HCV ENV1 290	08/06/93	08/103,396
3582 (166)	HCV NS1/E2 632	08/06/93	08/103,396
3583 (166)	HCV NS3 1396	08/06/93	08/103,396
3584 (166)	HCV NS4 1863	08/06/93	08/103,396
3586 (166)	HCV NS3 1262	08/06/93	08/103,396
3588	HCV CORE 169	07/21/94	08/278,634
2257	HCV CORE 126	12/01/94	08/347,610
2251	HCV NS5 2922	12/01/94	08/347,610

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**Preliminary Amendment**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Prior to examination on the merits, kindly enter the following Amendment.

This Amendment is provided in the following format:

- (A) A clean version of each replacement paragraph/section/claim along with clear instructions for entry;
- (B) Starting on a separate page, appropriate remarks. 37 C.F.R. § 1.111 and MPEP 714; and
- (C) Starting on a separate page, a marked-up version entitled: "Version with markings to show changes made."

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***Amendments***

***In the Specification***

Please replace the paragraph beginning at page 12, line 15 with the following paragraph:

The term "peptide" is used interchangeably with "oligopeptide" in the present specification to designate a series of residues, typically L-amino acids, connected one to the

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